

### **Division 3. Air Resources Board**

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#### **Chapter 1. Air Resources Board**

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#### **Subchapter 3.6. Air Toxics “Hot Spots” Fee Regulation**

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##### **Article 1. General**

##### **§ 90700. Purpose and Mandate.**

(a) This regulation provides for the establishment of fees to pay for the cost of implementing and administering the Air Toxics “Hot Spots” Information and Assessment Act of 1987 (the “Act”; Stats 1987 ch 1252; Health and Safety Code Section 44300 et seq.).

(b) Each district with jurisdiction over facilities meeting the criteria set forth in Section 90702(a) shall annually collect from the operator of each such facility, and each operator shall pay, fees which shall provide for the following:

(1) Recovery of anticipated costs to be incurred by the State Board and the Office to implement and administer the Act, as set forth in Table 1 of this regulation, and any costs incurred by the Office or its independent contractor for review of facility risk assessments submitted to the State after March 31, 1995 under Health and Safety Code Section 44361(c).

(2) Recovery of anticipated costs to be incurred by the district to implement and administer the Act, including but not limited to the cost incurred to: review emission inventory plans, review emission inventory data, review risk assessments, verify plans and data, and administer this regulation and the Air Toxics “Hot Spots” program.

NOTE: Authority cited: Sections 39600, 39601 and 44380, Health and Safety Code. Reference: Sections 44320, 44361, and 44380, Health and Safety Code.

##### **REFERENCE**

##### **§ 90701. Definitions.**

(a) “Air pollution control district” or “district” has the same meaning as defined in Section 39025 of the Health and Safety Code.

(b) “Criteria pollutant” means, for purposes of this regulation, total organic gases, particulate matter, nitrogen oxides or sulfur oxides.

(c) “District Update Facility” means a facility

(1) that has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) “Air Toxics ‘Hot Spots’ Program Facility Prioritization Guidelines, July 1990”, which has been approved by the State Board and which is incorporated by reference herein, and

(2) that is required by the district to submit a quadrennial emissions inventory update pursuant to Health and Safety Code Section 44344 during the applicable fiscal year, and

(3) whose prioritization scores for cancer and non-cancer health effects are both greater than 1.0 and equal to or less than 10.0.

(d) “Facility” has the same meaning as defined in Section 44304 of the Health and Safety Code.

(e) “Facility Data List” means a list of facilities, including the information set forth in Section 90704(e)(3).

(f) “Facility Program Category” means a grouping of facilities meeting the definitions in Sections 90701(k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (ae), (ah), (ai), (aj), (ak), (al), (am), (an), or (ao).

(g) “Guidelines Report” (Air Toxics Hot Spots Emission Inventory Criteria and Guidelines Report) is the report incorporated by reference under Section 93300.5 of this title that contains regulatory requirements for the Air Toxics Hot Spots Emission Inventory Program.

(h) “Industrywide Facility” means a facility that qualifies to be included in an industrywide emission inventory prepared by an air pollution control district pursuant to Health and Safety Code Section 44323, or

an individual facility which emits less than 10 tons per year of each criteria pollutant, falls within a class composed of primarily small businesses, and whose emissions inventory report was prepared by the air pollution control district.

(i) "Office" means the Office of Environmental Health Hazard Assessment.

(j) "Operator" has the same meaning as defined in Section 44307 of the Health and Safety Code.

(k) "Prioritization Score Greater Than Ten (10.0) Facility" means a facility that does not have an approved health risk assessment and has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer effects is greater than 10.0.

(l) "Prioritization Score Greater Than Ten (10.0) Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(k), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(m) "Prioritization Score Greater Than Ten (10.0) Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(k), and has three to five processes as determined by six-digit SCC.

(n) "Prioritization Score Greater Than Ten (10.0) Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(k), and has one or two processes as determined by six-digit SCC.

(o) "Risk of 10.0 to Less Than 50.0 Per Million Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results meet either of the following criteria:

(1) a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 10.0 but less than 50.0 cases per million persons or,

(2) a total hazard index for each toxicological endpoint, either acute or chronic, of greater than 1.0 and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than 50.0.

(p) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(o), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(q) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(o), and has three to five processes as determined by six-digit SCC.

(r) "Risk of 10.0 to Less Than 50.0 Per Million Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(o), and has one or two processes as determined by six-digit SCC.

(s) "Risk of 50.0 to Less Than 100.0 Per Million Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk across all pathways of exposure and all compounds, of greater than or equal to 50.0, but less than 100.0 cases per million persons.

(t) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(s), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(u) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(s), and has three to five processes as determined by six-digit SCC.

(v) "Risk of 50.0 to Less Than 100.0 Per Million Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(s), and has one or two processes as determined by six-digit SCC.

(w) "Risk of 100.0 Per Million or Greater Facility" means a facility that has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and whose risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of greater than or equal to 100.0 cases per million persons.

(x) "Risk of 100.0 Per Million or Greater Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(w), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(y) "Risk of 100.0 Per Million or Greater Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(w), and has three to five processes as determined by six-digit SCC.

(z) "Risk of 100.0 Per Million or Greater Facility (Simple)" means a facility that meets the criteria set forth in Section 90701(w), and has one or two processes as determined by six-digit SCC.

(aa) "Small Business" for the purposes of Section 90704(g)(2) means a facility which is independently owned and operated and has met all of the following criteria in the preceding year: 1) the facility has 10 or fewer (annual full-time equivalence) employees; 2) the facility's total annual gross receipts are less than \$1,000,000; and 3) the total annual gross receipts for the California operations the facility is part of are less than \$5,000,000. All oil producers in the San Joaquin Valley Unified Air Pollution Control District will be judged by the criteria of San Joaquin Valley Unified Air Pollution Control District Rule 2201, subsections 3.29.1 - 3.29.3 (Operative June 15, 1995) to determine overall facility size and boundaries for purposes of qualifying as a small business.

(ab) "Source Classification Codes" or "SCC" means number codes created by the United States Environmental Protection Agency used to identify processes associated with point sources that contribute emissions to the atmosphere.

(ac) "Standard Industrial Classification Code" or "SIC Code" means the Standard Industrial Classification Code which classifies establishments by the type of business activity in which they are engaged, as defined by the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President, Office of Management and Budget, 1987, which is incorporated by reference herein.

(ad) "State costs" means the reasonable anticipated cost which will be incurred by the State Board and the Office to implement and administer the Act, as shown in Table 1 of this part.

(ae) "State Industrywide Facility" means a facility that (1) qualifies to be included in an industrywide emission inventory prepared by an air pollution control or air quality management district pursuant to Health and Safety Code Section 44323, (2) releases, or has the potential to release, less than ten tons per year of each criteria pollutant, and (3) is either of the following:

(A) a facility in one of the following four classes of facilities: autobody shops, as described by SIC Codes 5511-5521 or 7532; gasoline stations, as described by SIC Code 5541; dry cleaners, as described by SIC Code 7216; and printing and publishing, as described by SIC Codes 2711-2771 or 2782; or

(B) a facility that has not prepared an Individual Plan and Report in accordance with Sections 44340, 44341, and 44344 of the Health and Safety Code and for which the district submits documentation for approval by the Executive Officer of the State Board, verifying that the facility meets the requirements of Health and Safety Code Section 44323(a)-(d).

(af) "Supplemental Fee" means the fee charged to cover the costs of the district to review a health risk assessment containing supplemental information which was prepared in accordance with the provisions of Section 44360(b)(3) of the Health and Safety Code.

(ag) "Total organic gases" or "TOG" means all gases containing carbon, except carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(ah) "Tracking Facility" means a facility that has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990", which has been approved by the State Board and which is incorporated by reference herein, and the greater of the facility's prioritization scores for cancer and non-cancer health effects is greater than 10.0, and meets either one of the following criteria:

(1) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of equal to or greater than 1.0 and less than ten (10) cases per million persons and a total hazard index for each toxicological endpoint, both acute and chronic, of less than or equal to 1.0, or

(2) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total hazard index for each toxicological endpoint, either acute or chronic, of greater than or equal to 0.1, but less than or equal to 1.0, and a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than ten (10) cases per million persons.

(ai) "Tracking Facility (Complex)" means a facility that meets the criteria set forth in Section 90701(ah), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(aj) "Tracking Facility (Medium)" means a facility that meets the criteria set forth in Section 90701(ah), and has three to five processes as determined by six-digit SCC.

(ak) “Tracking Facility (Simple)” means a facility that meets the criteria set forth in Section 90701(ah), and has one or two processes as determined by six-digit SCC.

(al) “Unprioritized Facility” means a facility that has not been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) “Air Toxics ‘Hot Spots’ Program Facility Prioritization Guidelines, July 1990”, which has been approved by the State Board and is incorporated by reference herein.

(am) “Unprioritized Facility (Complex)” means a facility that meets the criteria set forth in Section 90701(al), and has more than five processes as determined by six-digit Source Classification Codes (SCC).

(an) “Unprioritized Facility (Medium)” means a facility that meets the criteria set forth in Section 90701(al), and has three to five processes as determined by six-digit SCC.

(ao) “Unprioritized Facility (Simple)” means a facility that meets the criteria set forth in Section 90701(al), and has one or two processes as determined by six-digit SCC.

NOTE: Authority cited: Sections 39600, 39601, 44380 and 44380.5, Health and Safety Code. Reference: Sections 44320, 44344.4, 44380 and 44380.5, Health and Safety Code.

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### **Article 2. Applicability**

#### **§ 90702. Facilities Covered.**

(a) Except for facilities exempted by Health and Safety Code Section 44324, 44344.4(a), or 44380.1 this regulation applies to any facility which:

(1) manufactures, formulates, uses, or releases any of the substances listed by the State Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A of the Guidelines Report, or any other substance which reacts to form a substance so listed, and releases 10 tons per year or greater of any criteria pollutant, or

(2) is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by an air pollution control district and referenced in Appendix A, or

(3) manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than 10 tons per year of each criteria pollutant and falls in any class listed in Appendix E of the Guidelines Report, or

(4) is reinstated under Health and Safety Code Section 44344.7.

(b) On or before July 1 of the applicable fiscal year, each district shall provide to the State Board a list of facilities meeting any one or more of the criteria specified in subdivision (c) and (d) of this section. The list of facilities shall include the facility's name, identification number, and documentation of the exemption or exemptions any facility qualifies for under this section.

(c) A facility shall be excluded from the calculation of the distribution of the State's cost specified in Section 90703(a) if by July 1 of the applicable fiscal year, any one or more of the following criteria is met:

(1) the facility has been prioritized by its district in accordance with Health and Safety Code Section 44360(a) using procedures that have undergone public review and that are consistent with the procedures presented in the California Air Pollution Control Officers Association (CAPCOA) “Air Toxics ‘Hot Spots’ Program Facility Prioritization Guidelines, July 1990”, which has been approved by the State Board and which is incorporated by reference herein, and the facility's prioritization score is less than or equal to 10.0 for cancer health effects and is less than or equal to 10.0 for non-cancer health effects.

(2) the facility has had its health risk assessment approved by the district in accordance with Health and Safety Code Section 44362 and the risk assessment results show a total potential cancer risk, summed across all pathways of exposure and all compounds, of less than one case per one million persons and a

total hazard index for each toxicological endpoint, both acute and chronic, of less than 0.1. Some appropriate procedures for determining potential cancer risk and total hazard index are presented in the CAPCOA "Air Toxics 'Hot Spots' Program Revised 1992 Risk Assessment Guidelines, October 1993", which is incorporated by reference herein.

(3) the facility primarily performs printing as described by SIC Codes 2711 through 2771 or 2782, and the facility uses an annualized average of two gallons per day or less (or 17 pounds per day or less) of all graphic arts materials (deducting the amount of any water or acetone) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(4) the facility is a wastewater treatment plant as described by SIC Code 4952, the facility does not have a sludge incinerator and the maximum throughput at the facility does not exceed 10,000,000 gallons per day unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(5) the facility is a crematorium for humans, animals, or pets as described by SIC Code 7261 or any SIC Code that describes a facility using an incinerator to burn biomedical waste (animals), the facility uses propane or natural gas as fuel, and the facility annually cremates no more than 300 cases (human) or 43,200 pounds (human or animal) unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2). Facilities using incinerators that burn biomedical waste other than cremating animals do not qualify for this exemption.

(6) the facility is primarily a boat building and repair facility or primarily a ship building and repair facility as described by SIC Codes 3731 or 3732, and the facility uses 20 gallons per year or less of coatings or is a coating operation using hand held nonrefillable aerosol cans only unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(7) the facility is a hospital or veterinary clinic building that is in compliance with the control requirements specified in the Ethylene Oxide Control Measure for Sterilizers and Aerators, section 93108 of this title, and has an annual usage of ethylene oxide of less than 100 pounds per year if it is housed in a single story building, or has an annual usage of ethylene oxide of less than 600 pounds per year if it is housed in a multi-story building unless a district required a health risk assessment and results show the facility would not qualify under Section 90702(c)(2).

(8) the facility was not required to conduct a risk assessment under Health and Safety Code Section 44360(b), and the district, or the facility with the concurrence of the district, has conducted a worst-case, health conservative risk assessment using screening air dispersion modeling criteria set forth in Appendix F of the Guidelines Report and has demonstrated to the satisfaction of the district that the facility's screening risk levels meet the criteria set forth in Section 90702(c)(2).

(d) A facility shall be excluded from the fee schedule calculated in accordance with Section 90704(d)-(g) and from the fee schedule set forth in Table 3 for the applicable fiscal year if (1) it qualifies for exclusion pursuant to subdivision (c) of this section, (2) it is located in a district which has met the requirements of section 90704(c) and (3) the district has requested State Board adoption of a fee schedule. Exclusion from fee schedules under this subdivision does not exempt a facility from any other applicable requirement under this title.

NOTE: Authority cited: Sections 39600, 39601, 44321, 44344.4, 44344.7 and 44380, Health and Safety Code. Reference: Sections 44320, 44321, 44322, 44344.4, 44344.7 and 44380, Health and Safety Code.

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##### **Article 3. Fees**

##### **§ 90703. District Board Adoption of Fees.**

Except for the districts that have fulfilled all of the requirements specified in Section 90704(b), every district shall annually adopt a rule or regulation which recovers the costs specified in 90700(b), unless the district rule or regulation contains a specific provision for automatic readoption of the rule or regulation annually by operation of law.

(a) Except as specified in subdivision (b) of this section, or in Section 90702(c) and (d), the State Board shall calculate each district's share of state costs on the basis of the number of facilities in program categories as defined in Sections 90701(k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (ae), (ah), (ai), (aj), (ak), (al), (am), (an), and (ao).

(1) For the purposes of subdivision (a) of this section, the district shall set forth the facilities that are in the described program categories on or before July 1 of the applicable fiscal year.

(b) For purposes of calculation of a district's share of State costs under subdivision (a) of this section, the number of facilities in the State Industrywide Facility Program Category will be based on the provisions of Section 90704(d)(2).

(c) Districts shall reimburse the State in accordance with Health and Safety Code Section 44361(c) for review of facility risk assessments submitted to the State after March 31, 1995.

NOTE: Authority cited: Sections 39600, 39601, 44321 and 44380, Health and Safety Code. Reference: Sections 44320, 44321, 44322, 44361 and 44380, Health and Safety Code.

##### **REFERENCE**

##### **§ 90704. State Board Adoption of Fees.**

(a) The State Board shall annually adopt a regulation which meets the requirements of Health and Safety Code Section 44380(a). Districts whose fee schedules are included in this regulation under Section 90704(b) are subject to the provisions of subdivisions (d)-(i) of this section.

(b) The State Board may annually adopt a fee schedule which assesses a fee upon the operators of facilities subject to this regulation, and which identifies and provides for the recovery of both state costs and district costs to administer and implement the Act pursuant to Section 90700(b), for facilities located in districts that have completed all of the following requirements:

(1) The district board has approved, and adopted by resolution, the cost of implementing and administering the Act for the applicable fiscal year as specified in Section 90700(b)(2);

(2) The district has submitted a written request specifying the amount to be collected for the applicable fiscal year, through fees established by the State Board regulation, as calculated pursuant to Section 90704(d), (e), (f), (g), and (h) and including documentation of the costs;

(3) The district has submitted the resolution, request and documentation specified in subsections (1) and (2) to the State Board by April 1 preceding the applicable fiscal year.

(c) Any district whose fee schedule is included in this regulation pursuant to Section 90704(b)(1)-(3) may, as a substitute for this regulation, adopt a district fee rule that meets the requirements of Section 90700(b), provided that the district informs the Executive Officer of the State Board in writing.

(d) Calculation of Fees.

(1) The State Board shall establish the fee applicable to each facility for the recovery of state and district costs and shall notify each district in writing each year of the amount to be collected from each facility and of the amount of revenue which the district must remit to the State Board for reimbursement of state costs, as set forth in Table 1. When calculating the fees, the State Board shall use the State costs in Table 1 and the district costs in Table 2, and shall take into account and allow for the unanticipated closing of businesses, nonpayment of fees, and other circumstances which would result in a shortfall in anticipated revenue.

(2) The State Board shall calculate fees on the basis of the Facility Data List as set forth by the district by July 1 of the applicable fiscal year, except for facilities excluded under Section 90702(c) or covered by Section 90704(f) and (g). For purposes of calculation of a district's share of State costs under this subdivision and under Section 90703(a), the number of State Industrywide facilities shall be used instead of the number of Industrywide facilities. Facilities that meet the Industrywide Facility definition but do not meet the State Industrywide Facility definition shall be placed in the appropriate Facility Program Category for purposes of calculation of a district's share of the State's costs. Districts may still assess facilities that meet the Industrywide definition but not the State Industrywide definition the fees listed in Table 4.

(e) Fees Based on Facility Program Category.

(1) The State Board shall provide a flat fee per facility based on the facility program category of the facility as set forth in Tables 3 and 4. The Facility Program Categories for Table 3 are Prioritization Score Greater Than Ten (10.0) (Complex); Prioritization Score Greater Than Ten (10.0) (Medium); Prioritization Score Greater Than Ten (10.0) (Simple); Risk of 10.0 to Less Than 50.0 Per Million (Complex); Risk of 10.0 to Less Than 50.0 Per Million (Medium); Risk of 10.0 to Less Than 50.0 Per Million (Simple); Risk of 50.0 to Less Than 100.0 Per Million (Complex); Risk of 50.0 to Less Than 100.0 Per Million (Medium); Risk of 50.0 to Less Than 100.0 Per Million (Simple); Risk of 100.0 Per Million, or Greater (Complex); Risk of 100.0 Per Million, or Greater (Medium); Risk of 100.0 Per Million, or Greater (Simple); Tracking (Complex); Tracking (Medium); Tracking (Simple); Unprioritized (Complex); Unprioritized (Medium); and Unprioritized (Simple). The Facility Program Category for Table 4 is State Industrywide.

(2) A facility that becomes subject to the Act after State Board adoption of the Fee Regulation, and is required to prepare an Inventory Plan and Report during the applicable fiscal year in accordance with Sections 44340, 44341, and 44344 of the Health and Safety Code, shall pay the appropriate Unprioritized (Complex, Medium, or Simple) fee for that fiscal year.

(3) A district shall provide to the State Board, by July 1 of the applicable fiscal year, a Facility Data List. The Facility Data List shall contain the following information: (a) the district abbreviation, (b) the county ID, (c) the name and facility identification number, (d) the Standard Industrial Classification Code of the facility, (e) the number of Source Classification Codes, (f) complexity (Simple, Medium, Complex), (g) prioritization score, (h) health risk assessment results, (i) whether or not the health risk assessment has been reviewed by OEHHA, (j) whether or not a screening risk assessment was performed, (k) reason excluded from calculation of the State's cost under the previously applicable fiscal year's Air Toxics Hot Spots Fee Regulation, (l) whether or not the facility is a state industrywide facility, (m) whether or not the facility is a small business as defined under Section 90701(aa), (n) whether or not the facility is an District Update Facility as defined under Section 90701(c), and (o) former Facility Program Category for the previously applicable fiscal year. The district shall provide the SIC Code for facilities being added to the State Industrywide Facility category.

(f) Specified Flat Fees.

(1) An Industrywide Facility shall be assessed the flat fee specified in Table 4. If a facility was previously assessed, and has paid, a fee pursuant to the Facility Program Categories specified for Table 4, subsequent fees pursuant to Table 4 shall be waived by the district, if the district determines that there are insignificant costs with respect to said facility under the Act.

(2) A facility in the State Industrywide Facility Program Category, as defined by Section 90701(ae), shall be assessed the flat fee specified in Table 4.

(g) Other Flat Fees.

(1) Pursuant to the provisions of Section 44380.5 of the Health and Safety Code, the supplemental fee which may be assessed upon the operator of a facility, to cover the direct costs to the district to review the information supplied, shall be no higher than \$2,000.

(2) The maximum fee that a small business, as defined in Section 90701(aa), shall pay will be \$300.

(3) If in the judgment of a district the action will not result in a shortfall in revenue, a district may request the fee for the Unprioritized (Simple) category be set at no more than \$800.

(4) Pursuant to the provisions of Section 44344.4(b) of the Health and Safety Code, the operator of an Update Facility may be assessed a fee of no higher than \$125 to cover the direct cost to the district to review the facility's quadrennial emission inventory update submitted under Health and Safety Code Section 44344. Beginning with Fiscal Year 1997-98, a district may assess a higher fee to review quadrennial emission inventory updates if it adopts written findings that the costs of processing the emission inventory update exceed \$125 and submits those findings to the State Board by April 1 preceding the applicable fiscal year. The fee adopted shall be no higher than that supported by the written findings.

(h) Costs to be recovered by the regulation adopted by the State Board pursuant to subdivision (b) of this section shall be calculated as follows: Each district board shall approve its anticipated costs to implement and administer the Act. The Air Resources Board will subtract from this amount anticipated revenues from collection of the flat fee specified in Section 90704(f); and any excess revenues obtained by the district pursuant to Section 90705(c). When submitting board-approved program costs to the State Board, the district shall include a breakdown of how the collected fees will be used.

(i) Districts shall reimburse the State in accordance with Health and Safety Code Section 44361(c) for review of facility risk assessments submitted to the State after March 31, 1995.

NOTE: Authority cited: Sections 39600, 39601, 44344.4 and 44380, Health and Safety Code. Reference: Sections 44320, 44322, 44344.4, 44380 and 44380.5, Health and Safety Code.

#### REFERENCE

### **§ 90705. Fee Payment and Collection.**

(a) Each district shall notify and assess the operator of each facility subject to this regulation in writing of the fee due. Except as provided in Sections 90702(c) and (d), 90703, 90704(f), and 90704(g), each district shall use the facility program category as the basis for billing. The operator shall remit the fee to the district within 60 days after the receipt of the fee assessment notice or the fee will be considered past due. If an operator fails to pay the fee within 60 days of this notice, the district shall assess a penalty of not more than 100 percent of the assessed fee, but in an amount sufficient, in the district's determination, to pay the district's additional expenses incurred by the operator's non-compliance. If an operator fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.

(1) The invoices sent by the districts to the facilities shall contain, but not be limited to, the following information: name and address of the facility; name, address, and phone number contact of the district sending the bill, invoice number, fiscal year for which the bill is being sent, where to send the remittance, an indication of whether or not a small business cap is applicable, and the following statement: "The California Health and Safety Code Section 44380 requires the collection of fees from facilities subject to the requirements of the Air Toxics Hot Spots Information and Assessment Act of 1987."

(b) Each district shall collect the fees assessed by or required to be assessed by this regulation. After deducting the costs to the district to implement and administer the program, each district shall transmit to the State Board the amount the district is required to collect for recovery of state costs pursuant to Section 90700(b)(1), as set forth in Table 1, within 180 days of the receipt of an invoice from the State Board. Checks shall be made payable to the State Air Resources Board. The State Board shall forward the revenues to the State Controller for deposit in the Air Toxics Inventory and Assessment Account.

(c) Any fee revenues received by a district for which fees have been adopted pursuant to Section 90704(b) that exceed district and state costs shall be reported to the State Board and shall be retained by the district for expenditure in the next two fiscal years.

(d) If a district does not collect sufficient revenues to cover both the district program costs and the portion of the state costs that the district is required to remit to the State Board for a particular fiscal year due to circumstances beyond the control of the district, the district shall notify the Executive Officer of the State Board prior to April 1 of the year following the applicable fiscal year and may for demonstrated good cause be relieved by the Executive Officer from an appropriate portion of the fees the district is required to collect and remit to the state.

Circumstances beyond the control of the district may include but are not limited to plant closure or refusal of the facility operator to pay despite permit revocation or other enforcement action. Documentation of the circumstances resulting in the shortfall shall be submitted to the ARB upon request. Nothing herein shall relieve the operator from any obligation to pay any fees assessed pursuant to this regulation.

(1) A district for which the State Board has adopted a fee schedule pursuant to Section 90704(b) may, upon notifying the Executive Officer of the State Board, carry over all or a portion of such shortfall in revenue from one to four fiscal years after the shortfall was discovered and add the shortfall amount to its program costs for each such subsequent fiscal year.

NOTE: Authority cited: Sections 39600, 39601 and 44380, Health and Safety Code. Reference: Section 44380, Health and Safety Code.

#### REFERENCE



Table 1  
Revenues to be Remitted to Cover State Costs by District

<i>District</i>	<i>Revenues to Be Remitted</i>
Amador.....\$	105
Antelope Valley .....	8,248
Bay Area.....	121,307
Butte.....	4,433
Calaveras .....	0
Colusa.....	0
El Dorado.....	6,441
Feather River .....	535
Glenn.....	140
Great Basin .....	5,004
Imperial .....	9,620
Kern .....	694
Lake .....	70
Lassen .....	3,129
Mariposa.....	507
Mendocino.....	7,555
Modoc .....	0
Mojave Desert .....	22,015
Monterey.....	4,109
North Coast .....	1,607
Northern Sierra.....	805
Northern Sonoma.....	70
Placer .....	10,945
Sacramento.....	19,647
San Diego .....	113,949
San Joaquin Valley .....	45,435
San Luis Obispo.....	560
Santa Barbara .....	28,688
Shasta.....	9,088
Siskiyou.....	5,069
South Coast .....	478,158
Tehama .....	1,257
Tuolumne.....	700
Ventura .....	29,9343
Yolo-Solano.....	5,978
Total .....	\$945,802

Table 2  
District Costs to be Recovered Through the Fee Regulation

<i>District</i>	<i>Anticipated District Costs*</i>
Antelope Valley .....	12,570
Great Basin .....	3,570
Lassen .....	2,489
Mojave Desert .....	31,985
Santa Barbara .....	50,000
Total .....	\$100,614

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\*These amounts may reflect adjustments for excess or insufficient revenues under Sections 90705(c) and (d)(1).

Table 3a

## Cost per Facility by District and Facility Program Category

<i>District</i>	<i>Unprioritized (Simple)</i>	<i>Unprioritized (Medium)</i>	<i>Unprioritized (Complex)</i>	<i>Tracking (Simple)</i>	<i>Tracking (Medium)</i>	<i>Tracking (Complex)</i>
State Portion Of Fee	402	603	804	67	100	134
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin	780	1,170	1,560			
Lassen						
Mojave Desert	800	4,143		460	690	921
Santa Barbara				344	516	688

Table 3b

## Cost per Facility by District and Facility Program Category

<i>District</i>	<i>Score &gt;10 (Simple)</i>	<i>Score &gt;10 (Medium)</i>	<i>Score &gt;10 (Complex)</i>	<i>Risk &gt;=10 &lt; 50 (Simple)</i>	<i>Risk &gt;=10 &lt; 50 (Medium)</i>	<i>Risk &gt;=10 &lt; 50 (Complex)</i>
State Portion Of Fee	1,674	2,009	2,344	3,014	3,349	3,684
Total Fee (State Portion + District Portion)						
Antelope Valley		7,113				10,150
Great Basin	2,555					
Lassen		4,498				
Mojave Desert					10,428	11,157
Santa Barbara				7,725	8,337	8,949

Table 3c

## Cost per Facility by District and Facility Program Category

<i>District</i>	<i>Risk &gt;= 50 &lt; 100 (Simple)</i>	<i>Risk &gt;= 50 &lt; 100 (Medium)</i>	<i>Risk &gt;= 50 &lt; 100 (Complex)</i>	<i>Risk &gt; = 100 (Simple)</i>	<i>Risk &gt; = 100 (Medium)</i>	<i>Risk &gt; = 100 (Complex)</i>
State Portion Of Fee	4,353	4,688	5,023	5,693	6,028	6,363
Total Fee (State Portion + District Portion)						
Antelope Valley						
Great Basin						
Imperial						
Lassen						
Mojave Desert			13,676			
Santa Barbara		10,507				

Table 4\*  
Fees for Industrywide and District Update Facilities

<i>District</i>	<i>Industrywide Facilities</i>	<i>District Update Facilities</i>
Antelope Valley	0	125
Great Basin	25	250
Lassen	0	0
Mojave Desert	0	125
Santa Barbara	60	125

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\*State cost per facility is consistent statewide as follows:  
State Industrywide facilities: \$35

## Appendix A

### Air Pollution Control District Air Toxic Inventories, Reports or Surveys

1. San Diego County Air Pollution Control District "List of Semiconductor Manufacturers Using Toxic Gases (Arsine or Phosphine). May 1988."
2. San Joaquin Valley Unified Air Pollution Control District "San Joaquin Valley Unified APCD Toxics List. February 25, 1994."
3. Santa Barbara County Air Pollution Control District "Current Santa Barbara County Air Pollution Control District List of Air Toxic Sources. July 14, 1997."